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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/463,536	08/18/2000	Jean Morelle	DEM-1	6455
20311	7590	04/27/2004		
MUSERLIAN AND LUCAS AND MERCANTI, LLP 475 PARK AVENUE SOUTH NEW YORK, NY 10016			EXAMINER PRYOR, ALTON NATHANIEL	
			ART UNIT	PAPER NUMBER
			1616	

DATE MAILED: 04/27/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on 15 January 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☐ Claim(s) 15-17, 19 and 20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) 15, 17, 19 and 20 is/are allowed.
- 6) ☐ Claim(s) 16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

1) ☐ Notice of References Cited (PTO-892)

4) ☐ Interview Summary (PTO-413)

## DETAILED ACTION

Applicant's arguments with respect to claim 16 filed 1/15/04 have been fully considered but they are not persuasive. See argument below.

I. Applicant argues that DeMil teaches nothing about increasing the sugar content of grapes. Applicant further argues that declaration of DeMil states that copper salts of caprylic amino acids are more effective than copper salts of butyric amino acids.

Examiner argues that DeMil teaches the application of copper caprylglycinate (copper salt of caprylic amino acid) to grape crops. See column 2 lines 55-60, column 3 lines 3-7, column 3 line 40 – column 4 line 3. It is inherent that DeMil's application would increase sugar content of grapes since DeMil uses the same composition (copper salt of caprylic amino acid) to treat the same population (grapes) as in instant application.

II. Applicant argues that DeMil teaches increasing floral fertility by treating plants between floral induction and the end of inflorescence. Applicant argues that the number of grapes are increased during this period. Applicant argues that this is opposite to the instant invention which is directed to increasing the sugar content of grapes. Applicant also argues that it is well known in the art in order to increase sugar production, the number of grapes on the vine must be decreased. Applicant further argues that the instant invention discloses that the vines of the grapes are treated when the grapes are on the vine. Examiner argues that Applicant provides no support for treating the vines of grapes when grapes are on the vine. In addition, since the periods including the end of flowering to the formation of grapes is not distinguished, DeMil teaches treating the vine when grapes are on the vine.

III. Claims 15,17,19,20 are allowable for reason on record

***Telephonic Inquiry***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alton N. Pryor whose telephone number is 571-272-0621. The examiner can normally be reached on 8:00 a.m. - 4:30 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thurman Page can be reached on 571-272-0549. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

ALTON N. PRYOR  
PRIMARY EXAMINER

Alton Pryor  
Primary Examiner  
AU 1616